Supreme Court, U.S.
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No.

In the Supreme Court of the United States

DENNY'S, INCORPORATED, IN ITS FIDUCIARY CAPACITY AS PLAN ADMINISTRATOR; DENNY'S, INCORPORATED VACATION PAY PLAN; ANDREW F. GREEN, IN HIS CAPACITY AS TRUSTEE OF THE DENNY'S INCORPORATED EMPLOYEE BENEFITS TRUST; DENNY'S INCORPORATED EMPLOYEE BENEFITS TRUST,

PETITIONERS,

v.

CHUCK CAKE, IN HIS CAPACITY AS ACTING DIRECTOR OF THE CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS; ARTHUR LUJAN, IN HIS CAPACITY AS THE LABOR COMMISSIONER OF THE STATE OF CALIFORNIA,

RESPONDENTS.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the United States Court of Appeals for the Fourth Circuit erred when it held—in conflict with the First, Seventh, and Eighth Circuits—that the Anti-Injunction Act ("AIA"), 28 U.S.C. § 2283, barred the district from enjoining Respondents' state court action even though it was initiated after Petitioners, fiduciaries of an employee welfare benefit plan, requested injunctive relief in federal court.

2. Whether the Fourth Circuit erred when it held—in conflict with the Second and Sixth Circuits—that Petitioners' request for declaratory and injunctive relief under the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001 *et seq.* did not fall within the expressly authorized exceptions to the AIA.

3. Whether the Fourth Circuit erred when it held—in conflict with the Third and Fifth Circuits—that all of the declaratory relief sought by Petitioners, including a declaration that a California statute purportedly regulating Petitioners' employee welfare benefit plan was preempted, constituted "an injunction to stay proceedings in a State court" within the meaning of the AIA.

RULE 29.6 STATEMENT

Petitioner Denny's Inc. is the wholly-owned subsidiary of Denny's Holdings, Inc., which is the wholly-owned subsidiary of Denny's Corp.

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The District Court's opinion (Pet. App. 25a-40a) is published at 247 F. Supp. 2d 813. The Fourth Circuit's opinion (Pet. App. 1a-24a) is published at 364 F.3d 521.

JURISDICTION

The Fourth Circuit denied Petitioners' petition for rehearing or rehearing en banc on May 7, 2004. Pet. App. 44a-45a. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

The Appendix (Pet. App. 48a-55a) reproduces 28 U.S.C. § 2283 and provisions of 29 U.S.C. § 1001 *et seq.* and the California Labor Code involved in this case.

STATEMENT OF THE CASE

Petitioners, fiduciaries of an employee welfare benefit plan, filed an action in federal court under 29 U.S.C. § 1132(a)(3) of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001 *et seq.*, seeking (1) a declaration that obligations purportedly imposed on the plan by the California Labor Code are preempted by ERISA; and (2) an injunction prohibiting enforcement of the preempted law. Respondents, the California officials named in the federal court action, filed suit in state court against Petitioners several weeks later, and the state court entered a stay. The United States Court of Appeals for the Fourth Circuit held that Respondents' initiation of a subsequent state court action defeated the exclusive jurisdiction of the federal court to provide any relief under ERISA by operation of the Anti-Injunction Act ("AIA"), 28 U.S.C. § 2283. That outcome conflicts with the standards applied in seven other circuits.

Factual and Regulatory Background

1. Denny's Inc. ("Denny's") is a national restaurant chain that employs approximately 30,000 people in thirty-six

states. Denny's established and maintains the Denny's, Inc. Vacation Plan ("the Plan") and the Denny's, Inc. Employee Benefits Trust ("the Trust") to provide vacation benefits to eligible employees. Denny's is the "administrator" and a "fiduciary" of the Plan under ERISA, 29 U.S.C. § 1002(16)(A), (21). The trustee of the Trust, Andrew F. Green, is also a fiduciary of the Plan within the meaning of 29 U.S.C. § 1002(21). The Plan and the Trust are located and administered in South Carolina, where Denny's maintains its principal place of business. *See* Pet. App. 26a.

The Plan provides that salaried employees are not eligible to use vacation days and will not be paid vacation benefits upon termination of their employment until they have completed six months of continuous service with Denny's. Hourly employees must complete one year of continuous service to receive vacation benefits under the Plan. *See id.* Petitioners apply these same terms uniformly to all employees in every state they conduct business, including the 7,587 Denny's workers in California.

2. ERISA imposes numerous obligations on plan fiduciaries like Petitioners, to ensure fair and responsible administration of a qualifying plan. Of particular importance here, a fiduciary must provide benefits "in accordance with the documents and instruments governing the plan insofar as such documents and instruments are consistent with" ERISA. 29 U.S.C. § 1104(a)(1)(D). ERISA also provides that state laws purporting to govern the terms of an employee benefit plan are completely preempted. *Id.* § 1144(a). Thus, an ERISA fiduciary has an obligation to pay benefits in accordance with the plan even if a state law purports to require different benefits.

Given the potential for conflicting duties under state and federal law, Congress provided ERISA fiduciaries a cause of action to obtain equitable relief to prevent violations of ERISA's preemption provisions and "determine whether

the plan's trustees may comply with a state [law]." *Franchise Tax Bd. v. Constr. Laborers Vacation Trust*, 463 U.S. 1, 26-27 (1983); *see also* 29 U.S.C. § 1132(a)(3). Congress provided federal district courts with exclusive jurisdiction over such suits. 29 U.S.C. § 1132(e)(1).

3. California statutes impose state law requirements on vacation benefit plans. California Labor Code § 227.3 provides that when "an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages," and that "an employment contract or employer policy shall not provide forfeiture of vested vacation time upon termination." Consistent with its understanding of its obligations under federal law, Petitioners continued to pay benefits in accordance with the terms of the plan and informed officials of California that they could not pay the benefits required by the California Labor Code.

On July 11, 2001, Petitioners received a letter from a staff attorney under the direction of Respondents Chuck Cake, Acting Director of the California Department of Industrial Relations ("the Department") and Arthur Lujan, Labor Commissioner of the State of California ("the Commissioner"). The letter contended that Petitioners' vacation plan policies violated California Labor Code § 227.3. The Department's attorney asserted that the Plan and the Trust are not covered by ERISA and thus can be subject to California law. The letter indicated that the Department would file an action against Petitioners to subject the Plan and the Trust to California law if Petitioners did not honor the State's demands. Pet. App. 26a-27a.

Proceedings In The District Court

1. As the Court of Appeals recognized, Petitioners faced a "Hobson's choice." Pet. App. 11a. To comply with California's demands, Petitioners would have had to pay

benefits to more than 7,500 employees in contravention of the terms of the plan. Petitioners therefore could "obey the state law, and risk violating the provisions of the plan or ... 'risk[] breaking the [state] law.'" *Id.* (citation omitted) (first alteration in original). Petitioners elected to seek clarification of their obligations as plan fiduciaries through the procedures afforded by Congress.

On September 6, 2002, Petitioners brought suit for declaratory and injunctive relief in the United States District Court for the District of South Carolina, the jurisdiction where the plan is administered. *See* 29 U.S.C. § 1132(e)(2). The complaint requested (1) a declaration that the Plan and Trust constitute an "employee welfare benefit plan" under ERISA; (2) a declaration that "ERISA preempts California statutes, regulations" as well as "any action or decision" of the Commissioner "having the effect of law that [the Commissioner] seek[s] to enforce against [Petitioners] based upon California law"; and (3) preliminary and permanent injunctions "barring [the Commissioner] from taking any action to enforce California law against [Petitioners] with regard to the Plan and the Trust." Pet App. 3a-4a. Petitioners could not have filed this action in state court; Congress established exclusive federal jurisdiction for these claims. 29 U.S.C. § 1132(e).

2. Respondents nevertheless filed suit against Petitioners in California state court on September 24, 2002, nearly three weeks later. The Commissioner asked the state court to award damages for unpaid vacation wages and waiting time penalties under California Labor Code § 203 and to order Petitioners to "cease and desist from violating" California Labor Code § 227.3. If granted, that relief would require Petitioners to follow California's incompatible vacation benefit regulations, preventing them from complying with ERISA's mandate to administer their plan in accordance with its terms. *See* 29 U.S.C. § 1104(a)(1)(D);

Pet. App. 26a ("California Labor Code Section 227.3 is in conflict with the Plan's vacation policy.").

In their answer, Petitioners raised ERISA preemption as an affirmative defense. Pet. App. 4a. On Petitioners' motion, and over Respondents' objection, the state court issued a stay "pending resolution" of the previously filed action in federal court. *Id.* at 42a.

Respondents then moved to dismiss Petitioners' federal action. The Commissioner claimed that the district court lacked personal jurisdiction, despite ERISA's nationwide service of process provision, 29 U.S.C. § 1132(e)(2). It also argued that the Anti-Injunction Act ("AIA"), 28 U.S.C. § 2283, and the *Younger* abstention doctrine compelled dismissal of the complaint.

3. Without reaching the AIA or *Younger* abstention claims, the district court granted the motion to dismiss for lack of personal jurisdiction. The court reasoned that personal jurisdiction conferred by Section 1132(e)(2) could only be satisfied if the claims "fall within ERISA's civil enforcement provision" under Section 1132(a)(3). Pet. App. 29a. Because the district court believed that Section 1132(a)(3) could not be used to enforce ERISA's preemption provision (29 U.S.C. § 1144), Pet. App. 30a, it held that there was no claim under Section 1132(a)(3) and thus no personal jurisdiction under ERISA's nationwide service of process provision. *Id.* at 36a-39a. Respondents immediately filed an application to lift the state court's stay of proceedings. The state court denied the request.

Proceedings In The Court Of Appeals

The Fourth Circuit reversed the district court's dismissal of the complaint for lack of personal jurisdiction. Pet. App. 11a. It nevertheless concluded that Petitioners' request for declaratory and injunctive relief was barred by the AIA and remanded "with instructions to enter an order

dismissing the case for failure to state a claim upon which relief can be granted." *Id.* at 17a-18a.

1. Addressing personal jurisdiction, the Fourth Circuit held that ERISA's civil enforcement provision authorizes actions to enforce all sections of Title I of ERISA, which "clearly contains ERISA's preemption provision." Pet. App. 6a. The Fourth Circuit also noted that this Court has "expressly stated that '[u]nder [Section 1132(a)(3)(B)], a participant, beneficiary or fiduciary of a plan covered by ERISA may bring a declaratory judgment action in federal court to determine whether the plan's trustees may comply with a state [law].'" *Id.* (quoting *Franchise Tax Bd.*, 463 U.S. at 26-27) (first and third alterations in original). Because Petitioners' "action to enforce § 1144 falls within § 1132(a)(3)," the Fourth Circuit vacated the district court's judgment dismissing this case for lack of personal jurisdiction. *Id.* at 11a.

2. The Court of Appeals nevertheless affirmed the dismissal of the complaint based on the Commissioner's alternative argument that the AIA prohibits a federal court from granting the declaratory and injunctive relief requested in Petitioners' complaint.

First, the Fourth Circuit held that Section 2283 applies to the state proceedings at issue here even though they were initiated after Petitioners filed this action in federal court seeking injunctive and declaratory relief. Pet. App. 17a-18a (holding that "the [AIA]'s prohibition on enjoining state court proceedings applies to any such proceeding pending at the time the federal court *acts* on the request for injunctive relief, regardless of when the state court action was filed"). The Court of Appeals specifically rejected the contrary position—that Section 2283 does not apply to such later-filed state actions—adopted by the First, Seventh, and Eighth Circuits. *Id.* at 14a-18a.

Second, based on its prior decision in *Employers Resource Management Co. v. Shannon*, 65 F.3d 1126 (4th Cir. 1995) ("*ERM*"), *cert. denied*, 516 U.S. 1094 (1996), the Fourth Circuit held categorically that ERISA "expressly authoriz[e]" an exception to Section 2283 in this (or any other) ERISA action. Explicitly "recognizing a 'circuit split' on the question," the Fourth Circuit squarely rejected the holding in the Second and Sixth Circuits that ERISA expressly authorizes an exception to Section 2283. *Id.*

Third, the Fourth Circuit held that Section 2283 reaches all the *declaratory* relief at issue here. Although the literal wording of the AIA prohibits only "an injunction to stay" state court proceedings, the court reasoned that "when the Act bars an injunction it 'also bar[s] the issuance of a declaratory judgment that would have the same effect as an injunction.'" Pet. App. 12a n.8 (quoting *Tex. Employers' Ins. Ass'n v. Jackson*, 862 F.2d 491 (5th Cir. 1988) (en banc), *cert. denied*, 490 U.S. 1035 (1989)) (alteration in original). It then held that the declaratory relief sought in this case—including Petitioners' limited request for a declaration that the California statute is preempted—would have the same "effect" as an injunction, apparently based upon its potential for collateral estoppel effects. The court therefore concluded that the AIA "rendered the district court powerless to issue any of the relief Denny's requested." *Id.* at 18a.

3. In her concurring opinion, Judge Williams agreed with the majority's conclusion regarding personal jurisdiction. She wrote separately to explain that she concurred in the judgment because dismissal of Petitioners' complaint was "compelled by our prior decision in *Employers Resource Management*" and to "highlight some of [her] concerns" about the Court's interpretation of the AIA. Pet. App. 19a.

First, Judge Williams agreed "with many of the concerns expressed by then-Judge Stevens in *Barancik v. Investors Funding Corp.*, 489 F.2d 933 (7th Cir. 1973)" with reading the AIA to bar instructions of later-filed state suits, "especially the fear that our holding will pressure federal courts to grant temporary restraining orders." Pet. App. 19a. She also noted that "the facts of this case suggest a particularly troubling scenario" because the applicability of the AIA could have "hing[ed] entirely on the fortuity of the district court's erroneous procedural ruling." *Id.* at 19a n.*. Had the district court correctly found personal jurisdiction and ruled promptly on Petitioners' request for equitable relief, it might properly have enjoined initiation of the state suit. *Id.* at 19a. She nevertheless joined the majority's view that the AIA applies to later-filed state court proceedings. *Id.*

Second, addressing the "expressly authorized" exception to the AIA, Judge Williams stated that "[w]ere we writing on a clean slate, I might conclude that ERISA should be an exception to the AIA in all cases where the plan fiduciary seeks injunctive relief against state officials who are trying to impose state law or regulations on an ERISA plan." Pet. App. 21a. She acknowledged that "the AIA likely would not apply in this case" if that interpretation were adopted. *Id.* Judge Williams concluded, however, that this interpretation was "not available" under *ERM*. *Id.*

4. Petitioners filed a request for rehearing and rehearing en banc. The petition was denied on May 7, 2004. Pet. App. 44a-45a. Respondents then requested the state court to lift the stay. The state court denied the motion and the stay remains in effect.

REASONS FOR GRANTING THE WRIT

As Judge Williams emphasized in the opening lines of her concurring opinion, "this case require[d] our court to weigh in on two separate issues related to the Anti-

Injunction act that have divided the Courts of Appeals." Pet. App. 18a. This petition accordingly presents this Court with an exceptional opportunity to resolve persistent conflicts in the Court of Appeals concerning issues of national importance.

First, the circuit courts disagree about whether the AIA applies when the defendant elects to initiate state court proceedings after a federal action seeking injunctive relief has already been filed. More than half the circuit courts have addressed this question but they have failed to reach any form of consensus over the past three decades. This conflict concerning critical issues of federalism is long-standing, entrenched, and well recognized.

Second, the Courts of Appeals disagree about whether, and in what circumstances, ERISA can constitute an "expressly authorized" exception to the AIA. The Fourth Circuit and at least one other circuit hold that ERISA *never* authorizes relief otherwise barred by the AIA. In their view, Congress only intended to permit ERISA fiduciaries to pursue claims for relief within the exclusive jurisdiction of the federal courts until such time as the defendant elects to initiate a state court proceeding seeking to enforce a preempted state law. Two circuits have squarely rejected that view and held that Congress intended to authorize fiduciaries to obtain effective relief from preempted state action—including injunctions to stay state court proceedings—by pursuing claims within the exclusive jurisdiction of the federal courts. This conflict has fragmented ERISA litigation between federal and state courts and undermines the clear mandates of ERISA.

Third, the Courts of Appeals have also adopted divergent standards for defining declaratory relief that falls within the scope of the AIA's prohibitions. Three Courts of Appeals have created and applied three different standards to determine what should be characterized as an

impermissible "injunction to stay proceedings in state court." The differences were outcome-determinative here.

Finally, resolution of these issues is important. The patchwork of rights and remedies created by these conflicts in the circuits undermines the efficient and equitable administration of ERISA plans throughout the nation. Congress sought to ensure that fiduciaries *in every state* would have equal access to federal court remedies to ensure proper administration of their plans. But under the current state of affairs, the fiduciary of a plan administered in South Carolina (and a number of other states) cannot secure injunctive or declaratory relief from the federal court if the defendant decides to initiate an enforcement action in state court at any time before the fiduciary's request for equitable relief has been resolved by the federal court. Thus, fiduciaries who administer their plans in such states can be divested of the federal forum—notwithstanding ERISA's grant of exclusive federal jurisdiction—at the whim of the opposing party. In contrast, fiduciaries who administer their plans in states such as Michigan, Tennessee, and New York are guaranteed an exclusive federal forum for their ERISA claims. This state of the law seriously undermines ERISA's purposes and confuses basic federalism principles. *See, e.g., Franchise Tax Bd. v. Constr. Laborers Vacation Trust*, 463 U.S. 1, 21 (1983) (noting that the "express grant of federal jurisdiction in ERISA is limited to suits brought by certain parties [including fiduciaries] ... as to whom Congress presumably determined that a right to enter federal court was necessary to further the statute's purposes"); *cf. Aetna Health Inc. v. Davila*, Nos. 02-1845, 03-83, 2004 U.S. LEXIS 4571, at *15 (June 21, 2004) (holding that "any state-law cause of action that duplicates, supplements, or supplants the ERISA civil enforcement remedy conflicts with the clear congressional intent to make the ERISA remedy exclusive").

This Court has repeatedly recognized the importance of resolving issues that impair ERISA's mandate for national uniformity.[1] Review is warranted here.

I. THE FOURTH CIRCUIT'S HOLDING DEEPENS AN EXISTING CIRCUIT CONFLICT OVER WHETHER SECTION 2283 APPLIES TO STATE COURT PROCEEDINGS INITIATED AFTER INJUNCTIVE RELIEF IS SOUGHT IN FEDERAL COURT

It has long been established that the Anti-Injunction Act does not bar injunctions against the initiation of state court proceedings. *Dombrowski v. Pfister*, 380 U.S. 479, 484 n.2 (1965). The circuit courts cannot agree, however, whether defendants can defeat this rule by initiating state proceedings while the request for injunctive relief is pending in federal court.

At least four Courts of Appeals, including the court below, have recognized that there is a circuit split on the issue of whether the AIA applies to later-filed state actions. *See, e.g.*, Pet App. 14a (noting that First, Seventh, and

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[1] *See, e.g., Aetna Health Inc.*, 2004 U.S. LEXIS 4571, at *14 ("The purpose of ERISA is to provide a uniform regulatory regime over employee benefit plans."); *Raymond B. Yates, M.D., P.C. Profit Sharing Plan v. Hendon*, 124 S. Ct. 1330, 1341 (2004) ("ERISA's goal, this Court has emphasized, is 'uniform national treatment of [plan] benefits.'" (quoting *Patterson v. Shumate*, 504 U.S. 753, 765 (1992)); *Egelhoff v. Egelhoff*, 532 U.S. 141, 148 (2001) ("One of the principal goals of ERISA is to enable employers 'to establish a uniform administrative scheme, which provides a set of standard procedures to guide processing of claims and disbursement of benefits. Uniformity is impossible, however, if plans are subject to different legal obligations in different States.'" (citation omitted)); *Fort Halifax Packing Co. v. Coyne*, 482 U.S. 1, 9 (1987) (noting that Congress sought through ERISA "to establish a uniform administrative scheme"; "[s]uch a system is difficult to achieve, however," where plan would be required "to make certain benefits available in some States but not in others").

Eighth Circuits have held that AIA does not apply to later-filed state actions, while Fifth and Sixth Circuits "have rejected this judicial exception"); *Royal Ins. Co. of Am. v. Quinn-L Capital Corp.*, 3 F.3d 877, 884 (5th Cir. 1993) ("A circuit split exists on the question of whether the [AIA] has any application where the injunction is sought before a state suit has been filed but is not issued until after a state suit was filed."), *cert. denied*, 511 U.S. 1032 (1994); *Standard Microsystems Corp. v. Tex. Instruments Inc.*, 916 F.2d 58, 61 (2d Cir. 1990) (noting that First, Seventh, and Eighth Circuits had taken position that AIA does not apply to later-filed actions, which position had been "rejected in the Sixth [Circuit]"); *Roth v. Bank of Commonwealth*, 583 F.2d 527, 533 (6th Cir. 1978) ("rejecting the guidance of *Barancik*"), *cert. dismissed*, 442 U.S. 925 (1979); *see also* Jean R. Sternlight, *Forum Shopping for Arbitration Decisions: Federal Courts' Use of Antisuit Injunctions Against State Courts*, 147 U. Pa. L. Rev. 91, 152 n.255 (1998) (recognizing that "appellate courts are divided [over] whether or not the AIA's prohibition applies in situations where, at the time the federal court is requested to enjoin the filing of a state suit, the state suit has not been filed, but where a state suit is then filed prior to the issuance of a federal injunction prohibiting such a suit").

This debate has percolated and developed in the Courts of Appeals over a quarter century. Seven Courts of Appeals have spoken, but they cannot reach a consensus. There is accordingly no reason to postpone review of this question.

A. The First, Seventh, And Eighth Circuits Would Not Have Authorized Dismissal Of Petitioners' Federal Court Action Under The AIA

1. Had Petitioners litigated their case in the Seventh Circuit, the AIA would not have applied to its claims for the reasons set forth by then-Judge Stevens in *Barancik v.*

Investors Funding Corp. of New York, 489 F.2d 933 (7th Cir. 1973), and followed in the circuit for over thirty years. The *Barancik* plaintiffs, like Petitioners here, instituted an action in federal court to preserve their rights under federal law and sought to prevent the defendants from instituting state proceedings concerning the same subject matter. And the *Barancik* defendants, just like the Commissioner here, sought to defeat federal jurisdiction by filing a subsequent action in state court before the federal court could resolve the issues before it. The federal district court enjoined defendants "from prosecuting any proceeding to adjudicate the interests of the parties" before it reached its decision, and the Seventh Circuit affirmed. 489 F.2d at 935, 938.

The Seventh Circuit held that "the mandatory prohibition in § 2283 against injunctions staying court proceedings does not apply to state actions commenced after a motion for injunctive relief is filed in the federal court," *id.* at 938, based on four key principles. First, if Section 2283 did not apply to later-filed state actions, "a litigant would have an absolute right to defeat a well-founded motion by taking the very step the federal court was being urged to enjoin." *Id.* at 937. Second, applying Section 2283 to later-filed state actions would dissuade federal courts from fully considering motions for injunctive relief because "its authority to rule on the pending motion could be terminated by the action of one of the litigants." *Id.* ("consider[ing] this possibility unseemly"). Third, using temporary restraining orders to protect the authority of federal courts against the overbroad application of Section 2283 could "encourage the liberal granting of the kind of protective orders the [AIA] was intended to prevent" and "require the court to take action without notice to the opposing party lest the court's power be defeated before it can rule with deliberation." *Id.* at 938. Fourth, the court noted that because the AIA specifically excludes from its reach injunctions issued "in aid

of the federal court's jurisdiction," it "reflects a congressional purpose to avoid subordinating the exercise of federal judicial power to the will of one of the litigants." *Id.* The *Barancik* rule has been applied repeatedly and never questioned by the Seventh Circuit.[2]

2. The Eighth Circuit has consistently followed the *Barancik* rule for over twenty years; it, too, would have allowed Petitioners to pursue their claims for equitable relief. In *National City Lines, Inc. v. LLC Corp.*, 687 F.2d 1122 (8th Cir. 1982), the Eighth Circuit explicitly adopted the *Barancik* rule, endorsed the reasons supporting it, and affirmed the district court's order enjoining the defendants' later-filed state action, even though the state action was instituted only three days after the federal action.

The decisive question for the Eighth Circuit was whether state court proceedings had commenced at the time the *National City Lines* plaintiffs first requested injunctive relief in federal court. Citing *Barancik*, the court held that "[f]or reasons set forth by then Circuit Judge, now Justice Stevens, the question whether state actions are 'pending' is appropriately answered by reference to the date on which injunctive relief is *sought* in federal court, not the date on which injunctive relief is *granted*." 687 F.2d at 1127. Because the federal action seeking injunctive relief predated the state action (if only by days), the court held that "the Anti-Injunction Act presented no bar to the district court's injunction against state court proceedings." *Id.* at 1128.

3. The First Circuit also adopted the *Barancik* rule in *Hyde Park Partners, L.P. v. Connolly*, 839 F.2d 837 (1st

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[2] *See, e.g., Olcott Int'l & Co. v. Micro Data Base Sys., Inc.*, No. IP 99-180-C-B/S, 2000 U.S. Dist. LEXIS 9303, at *3 (S.D. Ind. June 29, 2000); *In re Mexico Money Transfer Litig.*, Nos. 98 C 2407, 98 C 2408, 1999 U.S. Dist. LEXIS 17268, at *9 (N.D. Ill. Oct. 13, 1999); *H. G. Gallimore, Inc. v. Abdula*, No. 85 C 7190, 1986 U.S. Dist. LEXIS 25543, at *3 (N.D. Ill. May 13, 1986); *Babcock & Wilcox Co. v. Pub. Serv. Co. of Ind., Inc.*, No. 76-98, 1976 U.S. Dist. LEXIS 11843, at *3 (S.D. Ind. Dec. 14, 1976).

Cir. 1988). In *Hyde Park*, the federal defendants instituted a state action less than six hours after the federal action was filed. The *Hyde Park* plaintiffs removed the state action, and the federal court enjoined further state proceedings. The First Circuit rejected the State's claim that use of removal in this manner violated the AIA. The court reasoned that the "[r]emoval was proper *even if* it was done in order to escape the strictures of the Anti-Injunction Act" (emphasis added), and that removal could not be viewed as an end run around the AIA "in any event" because Section 2283 "does not ... bar injunctive relief that would run against a state court—as, in effect would the relief ordered here ... when the federal court's injunctive power is *invoked* (*i.e.* requested) by the plaintiff before the state court action is commenced." *Id.* at 842 & n.6 (citing *Barancik* and *National City Lines*). Because the *Hyde Park* plaintiffs had requested injunctive relief in their federal action prior to the initiation of state court proceedings (if only by hours), the court reasoned that Section 2283 would have imposed no restriction on the district court's authority.[3]

B. The Fourth Circuit Explicitly Rejected The *Barancik* Rule And Aligned Itself With The Fifth And Sixth Circuits

The Fourth Circuit disagreed with then-Judge Stevens's reasoning and joined the Sixth and Seventh Circuits by explicitly refusing to apply the *Barancik* rule. Those courts

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[3] The Fourth Circuit viewed this reasoning as "dicta." Pet. App. 14a. That characterization is incorrect because the First Circuit relied on the *Barancik* rule as an alternative reason for concluding that the challenged use of removal did not contravene the AIA. *See Seminole Tribe v. Florida*, 517 U.S. 44, 67 (1996) (explaining that the exclusive basis for a judgment is not dicta: "[w]hen an opinion issues for the Court, it is not only the result but also those portions of the opinion necessary to that result by which we are bound"); *Philip Morris Inc. v. Harshbarger*, 946 F. Supp. 1067, 1074-75 (D. Mass. 1996) (concluding that AIA did not apply to later-filed state suit, despite acknowledged circuit split on issue, because in *Hyde Park* "the First Circuit has spoken").

categorically apply the AIA to later-filed state actions—a position also supported by the Second Circuit in dicta. Given those circuits' ardent criticism of the then-Judge Stevens's rationale, and their extensive consideration of the competing views advanced by both sides of the debate, there is no reason to believe that they will reconsider their opinions or that the Courts of Appeals ultimately will unite behind the *Barancik* rule.

The Sixth Circuit was the first Court of Appeals to reject *Barancik*. *See Roth v. Bank of Commonwealth*, 583 F.2d 527 (6th Cir. 1978). In *Roth*, the federal district court issued a preliminary injunction prohibiting the defendants from "prosecuting any separate civil actions against the named plaintiffs" in connection with the relevant subject matter. *Id.* at 530. The Court of Appeals held that the AIA applied to the later-filed state actions and thus concluded that the district court's injunction violated the AIA. The Sixth Circuit reasoned that the three enumerated exceptions to its prohibitions were exclusive and the *Barancik* rule did not fit within the language of those exceptions. *Id.* at 533-34. The Sixth Circuit found the policy reasons advanced by the *Barancik* court unpersuasive.[4]

The Fifth Circuit followed suit in *Royal Insurance Co. v. Quinn-L Capital Corp.*, 3 F.3d 877 (5th Cir. 1993). The *Royal Insurance* court specifically noted that "[a] circuit split exists on the question of whether the [AIA] has any application where the injunction is sought before a state suit has been filed but is not issued until after a state suit was filed," but aligned itself with *Roth*. *Id.* at 884-85. After

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[4] *See also Tropf v. Fid. Nat'l Title Ins. Co.*, 289 F.3d 929, 941 (6th Cir. 2002) (citing *Roth* for the proposition that the "Anti-Injunction Act prohibits federal courts from issuing injunctions against state court proceedings 'commenced after the institution of the federal suit but before the ... the injunction was issued'"), *cert. denied*, 537 U.S. 1118 (2003); *Martingale v. City of Louisville*, 361 F.3d 297, 304 (6th Cir. 2004) (citing *Roth* for same proposition).

considerable analysis, the Court of Appeals found *Barancik*'s "reasoning to be questionable," concluded that "*Roth* provides the better analysis," and held that "the Act applies whenever a state suit is pending, regardless of when it was filed."[5] *Id.* at 885.

The Second Circuit also expressed opposition to the *Barancik* rule in *Standard Microsystems Corp. v. Texas Instruments, Inc.*, 916 F.2d 58 (2d Cir. 1990). The Court of Appeals recognized a circuit split on the issue, considered the policy reasons advanced by the *Barancik* court, and "d[id] not find its reasoning compelling." *Id.* at 62. The court expressed "considerable doubt whether the *Barancik* rule should be adopted in this circuit," but ultimately concluded that it need not reach the issue. *Id.*

II. THE FOURTH CIRCUIT'S HOLDING FURTHER DIVIDES THE CIRCUITS ON THE QUESTION WHETHER ERISA IS AN "EXPRESSLY AUTHORIZED" EXCEPTION TO SECTION 2283

A. The Lack Of Clear Standards For Identifying Statutes That Expressly Authorize Exceptions To The AIA Has Led To A Conflict In The Circuits

By its terms, the AIA does not apply if the injunctive relief requested is "expressly authorized by Act of Congress." 28 U.S.C. § 2283. This Court last considered whether federal laws satisfied the "expressly authorized" exception in *Mitchum v. Foster*, 407 U.S. 225 (1972) (42 U.S.C. § 1983), and *Vendo Co. v. Lektro-Vend Corp.*, 433 U.S. 623 (1977) (Clayton Act). Over the past twenty-five years, lower courts have struggled to apply the standards established in *Mitchum* and *Vendo* in the context of ERISA.

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[5] *See also Sherwin-Williams Co. v. Holmes County*, 343 F.3d 383, 400 n.11 (5th Cir. 2003).

As Judge Becker observed in *1975 Salaried Retirement Plan for Eligible Employees of Crucible, Inc. v. Nobers*, 968 F.2d 401 (3d Cir. 1992), "[t]he *Mitchum* test ... has proven more difficult to apply" and "[t]he only Supreme Court case on this point since *Mitchum* is *Vendo* ... where the Court split three ways." 968 F.2d at 408-09; *see also* Pet. App. 22a (Williams, J., concurring) (expressing doubt about the proper application of the AIA to ERISA because "[t]he Supreme Court has not spoken clearly as to whether the AIA should be interpreted using a categorical or case-by-case approach" and noting divergent views expressed in the three *Vendo* opinions).

In *Mitchum*, a unanimous Court held that a statute "need not contain an express reference" to the AIA, and "need not expressly authorize an injunction of a state court proceeding in order to qualify as an exception" to the Act. 407 U.S. at 237. A federal statute provides the necessary express authorization if (1) it clearly "creat[es] a federal right or remedy enforceable in a federal court of equity" and (2) that right or remedy "could be given its intended scope only by the stay of a state court proceeding." *Id.* (applying this two-part test to conclude that 42 U.S.C. § 1983 constitutes an "expressly authorized" exception to Section 2283).

In *Vendo*, this Court considered whether Section 16 of the Clayton Act, which authorizes private individuals to seek injunctive relief for violations of antitrust laws, provides the necessary express authorization to avoid Section 2283. The *Vendo* court issued three separate and conflicting opinions. A plurality of three Justices found that the second prong of the *Mitchum* test should be modified to require that "the Act countenancing the federal injunction must necessarily interact with, or focus upon, a state judicial proceeding." 433 U.S. at 640-41. The plurality agreed that

42 U.S.C. § 1983 met this revised standard but concluded that Section 16 of the Clayton Act did not. *Id.* at 633.

Two justices concurred with the plurality's judgment but disagreed with its rationale. They adopted a case-by-case approach according to which the Clayton Act is an expressly authorized exception "under narrowly limited circumstances" when (i) state court proceedings are "part of a 'pattern of baseless, repetitive claims' that are being used as an anticompetitive device," (ii) traditional requirements for equitable relief are satisfied, and (iii) such relief is necessary to enforce antitrust laws. *Id.* at 644. Further, four dissenters found that the Clayton Act satisfied the *Mitchum* test and therefore was an "expressly authorized" exception to Section 2283. *Id.* at 656. Thus, six Justices actually held that the Clayton Act does "expressly authorize" injunctions against some state court suits.

Five Courts of Appeals have considered whether ERISA provides the express authorization necessary to avoid Section 2283's prohibitions under the standards applied in *Mitchum* and *Vendo*. Two circuits have squarely held that ERISA does "expressly authorize" actions for injunctive relief otherwise barred by Section 2283. Three other circuits have dismissed ERISA actions based upon the AIA. And at least three Courts of Appeals have specifically recognized that there is a split in the circuits on the question whether ERISA is an "expressly authorized" exception to Section 2283 under the *Mitchum-Vendo* standards. *See, e.g.*, Pet. App. 13a n.9 (recognizing "circuit split" on the issue); *ERM*, 65 F.3d at 1132 ("Other circuits are divided on the issue of whether ERISA carves an exception into the [AIA] that enables federal courts to enjoin state proceedings when a party raises a question of federal law under ERISA."); *United States Steel Corp. Plan for Employees Ins. Benefits v. Musisko*, 885 F.2d 1170, 1178 (3d Cir. 1989) (recognizing that its holding conflicted with a decision of the Second

Circuit and concluding that "we are not swayed by it"), *cert. denied*, 493 U.S. 1074 (1990); *Total Plan Servs. Inc. v. Tex. Retailers Ass'n*, 925 F.2d 142, 145 & n.3 (5th Cir. 1991) (noting that its holding conflicted with a decision of the Sixth Circuit).

B. The Second And Sixth Circuits Would Have Concluded That The Injunctive And Declaratory Relief Petitioners Requested Was "Expressly Authorized" By ERISA

1. The Sixth Circuit was the first to consider whether ERISA provides an "expressly authorized" exception to the AIA. *See Gen. Motors Corp. v. Buha*, 623 F.2d 455 (6th Cir. 1980). The *Buha* court concluded that ERISA satisfies the first prong of *Mitchum* because it "confers a uniquely federal right or remedy." *Id.* at 458-59. The court explained that ERISA contains a provision preempting state laws and confers exclusive jurisdiction in federal district courts for actions by ERISA fiduciaries "to provide a uniform and systematic framework for regulation of employee benefit plans." *Id.* at 459 ("It is central to the statutory scheme that ERISA not be subject to state and local laws which might frustrate its goals."). The *Buha* defendant's state action, if successful, would have required payments in violation of the Sixth Circuit's interpretation of ERISA—a result at odds with ERISA's goal of assuring "'the equitable character of such plans and their financial soundness.'" *Id.* (quoting 29 U.S.C. § 1001(a)). Because ERISA specifically limits the role of state courts to achieve its commitment to uniformity, the Sixth Circuit held that the second *Mitchum* prong was met where, as there, the state court action would "have the effect of making it impossible for a fiduciary ... to carry out

its responsibilities under ERISA" by requiring payments from the plan that ERISA prohibited. *Id.* at 458-59.[6]

As in *Buha*, the state court action in this case, if successful, would undermine both the "equitable character" and "financial soundness" of Petitioners' vacation plan—on an even greater scale. Respondents' requested relief would force Petitioners to provide California workers preferential benefits; to pay thousands of employees in contravention of the terms of the plan, which must be followed under ERISA; and to increase the plan's costs substantially. The Sixth Circuit accordingly would not have dismissed the complaint under the AIA.

2. The Second Circuit, too, would have exempted Petitioners' claims for relief from the AIA under ERISA. *See Gilbert v. Burlington Indus., Inc.*, 765 F.2d 320 (2d Cir. 1985), *aff'd on other grounds sub nom. Roberts v. Burlington Indus., Inc.*, 477 U.S. 901 (1986). In *Gilbert*, a number of former employees filed claims with a state labor agency, seeking payment of certain benefits upon termination of their employment. The Court of Appeals affirmed a district court order permanently enjoining the state administrative proceedings on ERISA preemption grounds, holding that "Burlington is a fiduciary ... and is authorized under [ERISA] to seek an injunction of the state proceedings." *Id.* at 322-324, 329. The court further held that the injunction did not violate Section 2283 because it "falls within the Act's exception for actions 'expressly authorized' by federal law." *Id.* at 329.

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[6] *See also Six Clinics Holding Corp., II v. Cafcomp Sys., Inc.*, 119 F.3d 393, 403 (6th Cir. 1997) ("Indeed, this court's decision in [*Buha*] recognizes an overriding federal interest in federal adjudication of ERISA claims. In *Buha*, we held that ERISA clearly creates a federal right or remedy enforceable in a federal court of equity, and that ERISA could be given its intended scope only by the stay of a state court proceeding.").

It is not apparent from the *Gilbert* opinion whether the Second Circuit established a categorical rule that any request by an ERISA fiduciary to enjoin state proceedings satisfies the *Mitchum* standard or whether the court simply determined that the standard was met under the particular facts presented there. In that case, as in *Buha*, the employee plaintiffs' state proceedings, if successful, would have required the company to provide those employees special benefits and would have imposed greater costs on the ERISA plan. Thus, at the least, the Second Circuit agreed with the Sixth Circuit's conclusion that where an ERISA fiduciary seeks to enjoin state proceedings that would undermine the "equitable character" and "financial soundness" goals of ERISA, Section 2283 is no bar. Because Respondents' state action threatens the same harms here, Petitioner would have prevailed in the Second Circuit.

3. Petitioners may also have secured injunctive relief under the Third Circuit's interpretation of the "expressly authorized" exception to the AIA. The Third Circuit has twice held that ERISA did not "expressly authorize" actions filed to enjoin state proceedings. But the Court did not do what the Fourth Circuit did here and unequivocally adopt a categorical rule prohibiting injunctions of state proceedings in ERISA cases. As Judge Williams recognized in her concurring opinion, the Third Circuit appears to have "adopted a case-by-case approach." Pet. App. 22a.

In *United States Steel Corp. Plan for Employee Insurance Benefits v. Musisko*, 885 F.2d 1170 (3d Cir. 1989), an insurance company sought declaratory and injunctive relief in federal court to "void [an insured employee's] state judgment and to compel ERISA's application to the state lawsuit." *Id.* at 1172. The district court granted the requested relief, and the Court of Appeals reversed. *Id.* at 1172-73, 1180. The Third Circuit reasoned that, because ERISA's legislative history and statutory language were

"inadequate to demonstrate a congressional desire to defeat the bar of section 2283," ERISA did not constitute an "expressly authorized" exception to the AIA at least in that factual context. *See id.* at 1177-78 (distinguishing *Buha* based on "important factual differences").

In *Nobers*, the Third Circuit held that the AIA prohibited the injunction of a state court proceeding brought against five ERISA plans by former employees of the companies administering them. 968 F.2d at 411. It reiterated the view that ERISA did not "'expressly authorize' injunctions of state court actions," "even if the state court claims are subject to exclusive federal jurisdiction." *Id.* at 409-10. The Court further explained, however, that even if ERISA authorized an exception in some circumstances, the state litigation at issue in *Nobers* could not be enjoined. *Id.* at 410. The court reasoned that the outcome would "have no binding effect on the plans," would require no transfer of plan assets, and thus "will not prevent [the administrators] from complying with ERISA." *Id.* The opposite is true here. Respondents have expressly sought a state decree requiring a Petitioner to "cease and desist" administration of the plan in accordance with its terms. Thus, any such decree would have a "binding effect" on the plan that would prevent "compl[iance] with ERISA['s]" mandate to follow the terms of the plan. *Id.*

C. The Fourth Circuit Aligned Itself With The Fifth Circuit And Dismissed This Action Based On Its Determination That ERISA Can Never Constitute An "Expressly Authorized" Exception To The AIA

In rejecting Petitioners' argument that ERISA provided an "expressly authorized" exception to Section 2283 in this case, the Fourth Circuit noted that it had already thoroughly considered and rejected that position in

Employers Resource Management Co. v. Shannon, 65 F.3d 1126 (4th Cir. 1995). Pet App. 13a n.9. The Court of Appeals declined to revisit the issue, confirmed the breadth of its prior holding, and firmly aligned itself with the Fifth Circuit's interpretation of the AIA.

In *ERM*, a state agency initiated state court proceedings in an effort to apply state insurance laws to certain welfare benefits plans. The district court denied the plan fiduciary's request for declaratory and injunctive relief to prevent the state action on AIA grounds. The Fourth Circuit noted that "[o]ther circuits are divided on the issue of whether ERISA carves an exception into the Anti-Injunction Act" and "join[ed] the Third and Fifth Circuits in rejecting the notion that ERISA operates as an automatic exception to the Anti-Injunction Act." 65 F.3d at 1132. Specifically, the *ERM* court concluded that ERISA failed the first *Mitchum* element—that is, it did not establish the "type of 'unique' federal right or remedy that was at issue in *Mitchum*'s consideration of 42 U.S.C. § 1983." *Id.* at 1131. The court therefore affirmed the district court's denial of injunctive and declaratory relief on AIA grounds.

Petitioners argued below that *ERM* "did not hold that ERISA *never* operates as an exception," suggesting that fiduciaries could satisfy the *Mitchum* test in appropriate cases. *See* Pet App. 13a n.9. The Court rejected that claim, clarifying that *ERM* forecloses ERISA from ever constituting an "expressly authorized" exception to Section 2283. *Id.* ("Denny's misreads our opinion."); *see also id.* at 21a-22a (Williams, J., concurring) (noting that majority opinion "adopted a categorical approach and extended *Employers Resource Management* to all ERISA cases").

The Fifth Circuit has reached the same result. *See Total Plan Servs., Inc. v. Tex. Retailers Ass'n*, 925 F.2d 142 (5th Cir. 1991). In that case, the appellants had sought declaratory and injunctive relief in federal district court to

enjoin state court proceedings involving an ERISA plan, which the district court refused to grant on AIA grounds. *Id.* at 143. The appellants contended that Section 1132 of ERISA "expressly authorized" an exception to the AIA because it provides a federal right "'to enjoin any act or practice which violates'" ERISA. *Id.* at 144 (quoting 29 U.S.C. § 1132(a)(3)). The court rejected this argument, reasoning that "the mere filing of a state court proceeding" does not constitute a "violation" of ERISA. *Id.* Moreover, the Fifth Circuit explicitly adopted the reasoning of *Musisko* and rejected the notion that, in ERISA cases, "'federal rights will not be adequately protected in state courts.'" *Id.* at 145-46 (citation omitted). The court thus held "that ERISA does not fall within the 'expressly authorized' exception of section 2283" and affirmed. *Id.* The Court of Appeals specifically considered and rejected the standards adopted in *Buha*. *Id.* at 145 n.3.

III. THE FOURTH CIRCUIT'S HOLDING THAT THE AIA PROHIBITS THE DECLARATORY RELIEF SOUGHT HERE CONFLICTS WITH DECISIONS OF THE THIRD AND FIFTH CIRCUITS

Although the literal text of the AIA only encompasses "injunctions," the AIA has been interpreted to foreclose some forms of declaratory relief. The courts of appeals nevertheless apply divergent standards to the issue that control the outcome in this case.

1. The Fourth Circuit held that the AIA prohibited the district court from granting any of the declaratory relief Petitioners requested, including "a declaration that the Plan and Trust constitute an ERISA plan" and "a declaration that 'ERISA preempts the California statutes [and] regulations'" at issue in the dispute. Pet. App. 3a-4a, 18a. The Court recognized that the issuance of a federal court order declaring that "ERISA preempts the California

statutes [and] regulations" is not actually the same form of relief as an "injunction to stay proceedings in State court"—the only relief expressly barred by the terms of the AIA. *Id.* at 4a, 12a n.8. It nevertheless reasoned that this relief would have the same "effect" as an injunction to "stay proceedings" in state court. *Id.* at 12a n.8

That rationale cannot be reconciled with this Court's precedents, which have "never viewed parallel *in personam* actions as interfering with the jurisdiction of either court" or implicating the strictures of the AIA because each court is free to proceed, and whenever judgment is rendered, "'the effect ... is to be determined by the application of principles of *res judicata*.'" *Vendo*, 433 U.S. at 642 (citation omitted). The potential for *res judicata* effect accordingly should not be the sole standard for identifying declaratory relief barred by the AIA. Yet that is the only way that this declaratory relief would have had the same "effect" as an injunction.

Other circuits have declined to adopt that view and have instead adopted standards that would have authorized some relief here. In *Thiokol Chemical Corp. v. Burlington Industries, Inc.*, 448 F.2d 1328 (3d Cir. 1971), the Third Circuit exempted from the AIA's reach declaratory judgments addressing a critical federal question where "the state suit is likely to turn on [that] question of federal law"; the question is one with which the "federal court is likely to be more familiar and experienced than the state court"; and the state court "does not proceed in normal course to adjudicate the matter or otherwise manifests willingness to hold its hand pending federal decision of the question." 448 F.2d at 1332. In that case, the Court of Appeals upheld the district court's decision not to dismiss a federal action on AIA grounds where the first two elements were satisfied, pending a finding "by the district court that the state court is willing to hold the matter before it in abeyance pending a declaratory federal adjudication." *Id.* Each of the required

Thiokol elements is present here: the state and federal actions turn on whether the Plan and the Trust are ERISA plans; Congress itself has recognized that federal courts are better equipped to address that question; and the California state court voluntarily stayed proceedings to allow the district court and Court of Appeals to consider the issues before them. Had this case been litigated in the Third Circuit, Petitioners' claims for declaratory relief would not have been dismissed under the AIA.

Nor would the complaint have been dismissed in the Fifth Circuit. In *Travelers Insurance Co. v. Louisiana Farm Bureau Federation, Inc.*, 996 F.2d 774 (5th Cir. 1993), the Fifth Circuit held that declaratory relief is not prohibited by the AIA if its purpose is consistent with the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.* ("DJA"). 996 F.2d at 776-77. The Court of Appeals reasoned that the declaratory relief in that case was consistent with the DJA because it was not brought to nullify a party's advantage in a prior-filed state suit or to change forums and it had the effect of preventing a multiplicity of suits. *Id.* (contrasting *Tex. Employers' Ins. Ass'n v. Jackson*, 862 F.2d 491, 505 (5th Ci r. 1988), in which "the *only* purpose and effect" of the federal suit was to defeat a prior-filed state suit and overrule a prior determination against it in state court). Here, Petitioners were *required* to bring their action in federal court because ERISA created exclusive federal jurisdiction over their claim. As in *Travelers*, by resolving its status as an ERISA plan in federal court, Petitioners seek to prevent a multiplicity of suits throughout the thirty-six states in which it employs workers based on claims that its vacation benefit plan is not covered by ERISA. Because Petitioners' request for declaratory relief is fully consistent with the purposes of the DJA, the Fifth Circuit would not have prohibited it under the AIA.

IV. THE FOURTH CIRCUIT'S DECISION RAISES ISSUES OF RECURRING NATIONAL IMPORTANCE THAT SHOULD BE RESOLVED BY THIS COURT

Resolution of the persistent conflicts at issue here represents a matter of great national importance.

First, this Court has recognized that the AIA establishes important parameters in the relationship between federal and state courts. "It represents Congress' considered judgment as to how to balance the tensions inherent in such a system." *Chick Kam Choo v. Exxon Corp.*, 486 U.S. 140, 146 (1988). The primary purpose of Section 2283 is to prevent "friction between the state and federal courts," *Vendo*, 433 U.S. at 630, but that purpose cannot be served if litigants and courts are confused about the scope of the AIA's restrictions. Respondents presumably would not have filed their subsequent state action if they had clear guidance that the AIA does not apply to Petitioners' claims, eliminating any interference with the district court's ability to exercise its exclusive jurisdiction under ERISA. The confusion among the circuits regarding the application of Section 2283 to later-filed state actions and ERISA-related claims (and the uncertainty it has produced) thereby perpetuates the friction between federal and state courts that the AIA was designed to eliminate.

Second, resolution of these issues is necessary to determine the *nationwide* standards governing the rights and duties of ERISA fiduciaries that Congress has so plainly demanded. Congress gave fiduciaries in every state the right to bring civil actions in the exclusive jurisdiction of federal courts "to enjoin any act or practice which violates any provision" of ERISA or the terms of any employee benefit plan and to "enforce" the terms of ERISA. 29 U.S.C. § 1132(a). As it stands now, that right is seriously

curtailed by the AIA in some states but not others. As this Court has emphasized "'the crowning achievement of this legislation [is] the reservation to Federal authority [of] the sole power to regulate the field of employee benefit plans. With the preemption of the field, we round out the protection afforded participants by eliminating the threat of conflicting and inconsistent State and local regulation.'" *Shaw v. Delta Air Lines, Inc.*, 463 U.S. 85, 99 (1983) (quoting Rep. Dent, 120 Cong. Rec. 29, 197 (1974)); *see also Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41, 46 (1987) (stating that "the substantive and enforcement provisions of the conference substitute are intended to preempt the field for Federal regulations, thus eliminating the threat of conflicting or inconsistent State and local regulation of employee benefit plans" and noting "[t]his principle is intended to apply in its broadest sense to all actions of State or local governments, or any instrumentality thereof, which have the force or effect of law").

The lack of uniformity in the treatment of ERISA under Section 2283 contradicts Congress's goals as set forth in ERISA and the AIA. It creates confusion for thousands of fiduciaries, for plan participants and beneficiaries, for state agencies, and for state and federal courts across the country. It encourages litigants to forum shop, reduces judicial efficiency, and creates needless friction between (and uncertainty among) the federal and state courts. This case places before the Court the three crucial issues generating this critical instability and thus offers an excellent opportunity for this Court to establish clear uniform standards in a manner consistent with Congress's intent.

CONCLUSION

For the reasons set forth above, the petition for certiorari should be granted.

Respectfully submitted,

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